



STATE BOARD OF EQUALIZATION

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Executive Secretary

July 3, 1987

Dear

This is in response to your letter dated June 5, 1987, in which you request our advisory opinion on whether the transactions described below will result in an change in ownership. The transactions as outlined in your letter are as follows:

"Scenario No. 1"Stage 1:

"X Corp owns 49.1% of the voting stock of A Corp. A Corp. has 2 wholly-owned subsidiaries, B Corp. and C Corp., as well as several wholly-owned divisions. A Corp. forms New Corp., a wholly-owned subsidiary, and transfers all of the stock of B Corp. and C Corp., as well as all of the assets of Y Division, into New Corp.

"Stage 2: (a separate transaction from Stage 1)

All A Corp. common shareholders, excluding X Corp. and A Corp. senior management, retain all of their A Corp. stock, and receive one New Corp. share and \$17 for each A Corp. share owned. Senior managers at X Corp. and A Corp. retain all A Corp. stock, and receive one New Corp. share and \$17 worth of A Corp. stock for each A Corp. share owned. X Corp. common shareholders retain all A Corp. stock, and receive one New Corp. Adjustable Voting Rights share and \$17 for each A Corp. share owned. X Corp. preferred shareholders retain all A Corp. shares, and receive a combination of preferred and common New Corp. shares.

"As a result of distribution, X Corp. will hold 60% of the equity and 44% of the voting power of New Corp., and no shareholder will hold as much as 50% of the voting stock of New Corp."

Ch. 200 Corp

Analysis of Scenario No. 1:Stage 1:

Revenue and Taxation Code section 64(b) excludes a corporate reorganization or a transfer of real property from change in ownership where all of the corporations involved are members of an affiliated group. In order to qualify under section 64(b), the corporations must be affiliated before the reorganization or property transfer takes place and becoming an affiliated group cannot be just one step in the reorganization. In the scenario which you describe, New Corp. is newly formed as one step in the proposed transaction and, therefore, it is our position that section 64(b) is not applicable.

Revenue and Taxation code section 62(a)(2) provides that a change in ownership shall not include any transfer between legal entities which results solely in a change in the method of holding title to the real property and in which proportional ownership interest of the transferors and transferees in each and every piece of real property transferred remain the same after the transfer. Because New Corp. is a wholly owned subsidiary of A Corp., it is our opinion that the transfer from A Corp. to New Corp. is excluded by section 62(a)(2).

Stage 2:

Revenue and Taxation Code section 64(a) provides the general rule that the purchase or transfer of ownership interest in legal entities such as corporate stock will not be deemed to constitute a transfer of the real property of the legal entity. Three exceptions to this general rule are set forth in Revenue and Taxation Code sections 61(h), 64(c), and 64(d). Section 64(d) provides that when property has been transferred on or after March 1, 1975, to a legal entity in a transaction excluded from change in ownership by section 62(a)(2), whenever shares or other ownership interests representing cumulatively more than 50% of the total interest in the entity are transferred in one or more transactions, a change in ownership of the real property owned by the legal entity will occur. If the subsequent distribution of New Corp. shares to the A Corp. common shareholders, the A Corp. senior management, the X Corp. senior management, and the X Corp. common shareholders results in a distribution of more than 50% of the voting stock of New Corp., the distribution will trigger a reappraisal under section 64(d).

July 3, 1987

"Scenario No. 2"Stage 1

"X Corp. owns 49.1% of the voting stock of A Corp. A Corp. has 2 wholly-owned subsidiaries, B Corp. and C Corp., as well as several wholly-owned divisions. A Corp. forms Y Corp., a wholly-owned subsidiary, and transfers all of the assets of Y Division into it. A Corp. forms New Corp., also a wholly-owned subsidiary, and transfers all the stock of B Corp., C Corp., and Y Corp. into New Corp.

"Stage 2:

"Same as Stage 2 for Scenario No. 1."

Analysis of Scenario No. 2:Stage 1:

We believe that the transfer of assets from Y Division to Y Corp. and the subsequent transfer of all of the stock of B Corp., C Corp., and Y Corp. into New Corp. are excluded from change in ownership by section 62(a)(2) for the reasons stated in Stage 1 of Scenario No. 1.

Stage 2:

The same analysis for the distribution in Stage 2 of Scenario No. 1 applies.

The views expressed in this letter are only advisory in nature. They are not binding upon the assessor of any county. You may wish to consult the appropriate assessor in order to confirm that the described property will be assessed in a manner consistent with the conclusions stated above.

Very truly yours,

Michele F. Hicks

Michele F. Hicks
Tax Counsel

MFH:cb